

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201610498	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 12/11/2016 10:41 AM	Location of Incident: § 87(2)(b) 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 6/11/2018	EO SOL 6/11/2018	
Date/Time CV Reported Tue, 12/27/2016 3:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/27/2016 3:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Caleb Rauscher	16751	957990	075 PCT
2. POM Robinson Polanco	19321	947362	075 PCT
3. LT Vitaliy Zelikov	00000	936353	075 PCT
4. SGT Douglas Ayres	01107	936160	075 PCT
5. POM Michael Misilewich	03869	950892	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Vitaliy Zelikov	Abuse: Lieutenant Vitaliy Zelikov entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Caleb Rauscher	Abuse: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher drew his gun.	§ 87(2)(b)
C.POM Caleb Rauscher	Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher pointed his gun at § 87(2)(b)	§ 87(2)(b)
D.POM Caleb Rauscher	Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher used physical force against § 87(2)(b)	§ 87(2)(b)
E.LT Vitaliy Zelikov	Force: Inside of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov used physical force against § 87(2)(b)	§ 87(2)(b)
F.LT Vitaliy Zelikov	Abuse: Lieutenant Vitaliy Zelikov searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
G.LT Vitaliy Zelikov	Abuse: In front of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
H.LT Vitaliy Zelikov	Abuse: In front of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov damaged § 87(2)(b)'s property.	§ 87(2)(b)
I.POM Robinson Polanco	Abuse: En route to the 75th Precinct stationhouse, Police Officer Robinson Polanco did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.POM Michael Misilewich	Abuse: En route to the 75th Precinct stationhouse, Police Officer Michael Misilewich did not obtain medical treatment for § 87(2)(b)	
K.SGT Douglas Ayres	Abuse: At the 75th Precinct stationhouse, Sergeant Douglas Ayres did not obtain medical treatment for § 87(2)(b)	

Case Summary

This case is submitted past the 90-day benchmark due to difficulties scheduling officer interviews.

On December 27, 2016, § 87(2)(b) called the CCRB and filed this complaint.

On December 11, 2016, at approximately 8:30 a.m., § 87(2)(b) had a physical altercation with his girlfriend, § 87(2)(b) outside of § 87(2)(b)'s apartment, located at § 87(2)(b) basement apartment, in Brooklyn. After the altercation, § 87(2)(b) called 911 and reported that § 87(2)(b) assaulted her.

§ 87(2)(b) returned to his apartment and shut the door, leaving § 87(2)(b) outside. Immediately thereafter, § 87(2)(b) heard someone yell, "Police! Open up!" followed by loud banging on the front door. Before § 87(2)(b) could open the door, the door broke open, and approximately four officers, identified by the investigation as Lt. Vitaliy Zelikov, PO Caleb Rauscher, PO Robinson Polanco, and PO Michael Misilewich of the 75th Precinct, entered the apartment (**Allegation A**).

Upon entering the apartment, PO Rauscher drew and pointed his gun at § 87(2)(b) and then pressed his gun against § 87(2)(b)'s cheek (**Allegations B and C**). After PO Rauscher holstered his gun, he punched § 87(2)(b) twice in his head and three or four times in his stomach (**Allegation D**). Afterwards, Lt. Zelikov approached § 87(2)(b) grabbed his head with his both hands, and then hit the left side of § 87(2)(b)'s head against the wall several times, causing § 87(2)(b) to fall on his back (**Allegation E**). PO Polanco and PO Rauscher placed § 87(2)(b) in handcuffs.

Lt. Zelikov then walked to the master bedroom and picked up a marijuana cigarette that was in plain view on a TV stand. Lt. Zelikov walked back to the living room, and opened an opaque black plastic bag that was lying on top of a washing machine, and looked inside (**Allegation F**). Lt. Zelikov walked back to the master bedroom, opened all the drawers of a dresser, finding a nine millimeter revolver in the top drawer (**Subsumed in Allegation F**). Lt. Zelikov did not remove the revolver from the drawer, but returned to § 87(2)(b) and asked him to sign a consent-to-search form. § 87(2)(b) refused.

PO Polanco escorted § 87(2)(b) to a marked police vehicle outside. While in the police vehicle, § 87(2)(b) heard Lt. Zelikov ask § 87(2)(b) to open the trunk of the car. § 87(2)(b) complied. Lt. Zelikov searched the car's trunk, then walked to the front of the car, got inside, and searched underneath the front passenger and back passenger seats (**Allegation G**). Additionally, § 87(2)(b) alleged that in the course of the vehicle search, Lt. Zelikov broke the glove compartment (**Allegation H**).

En route to the stationhouse, § 87(2)(b) complained to PO Polanco and PO Misilewich of head pain and asked to be taken to the hospital. PO Polanco and PO Misilewich ignored his request (**Allegation I and J**).

After § 87(2)(b) was brought to the stationhouse and lodged in the cell, he asked an officer, identified by the investigation as Sgt. Douglas Ayres, to take him to the hospital (**Allegation K**). Sgt. Ayres told § 87(2)(b) to wait, but § 87(2)(b) was not taken to the hospital at any later time.

As a result of this incident, § 87(2)(b) was arrested and charged with § 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (BR11).

There is no video footage of this incident.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation due to § 87(2)(b)'s arrest.
- As of March 21, 2017, no Notice of Claim has been filed (BR02).
- § 87(2)(b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR03).
- PO Caleb Rauscher has been a member of service for two year and has no prior CCRB history.
- PO Robinson Polanco has been a member of service for eight years and has no prior CCRB history.
- PO Michael Misilewich has been a member of service for five years and has a total of three previous CCRB allegations stemming from one complaint that was made against him. § 87(2)(g)
- Sgt. Douglas Ayres has been a member of service for 12 years and has total of five previous CCRB allegations stemming from four separate complaints. § 87(2)(g)
 - In case #201509458, an allegation of refusal to process civilian complaint was closed as substantiated. The Board recommended Command Discipline A, and the NYPD penalty is pending.
- Lt. Vitaliy Zelikov has been a member of service for 12 years and has total of 39 previous CCRB allegations stemming from 16 separate complaints made against him. § 87(2)(g)
 - In case #201103208, an allegation of premises entered and searched was closed as substantiated. The Board recommended charges. The NYPD took no disciplinary action, resulting in no penalty.
 - In case #201503516, allegations of a stop and use of nonlethal restraining device were closed as substantiated. The Board recommended Command A Discipline. The NYPD took no disciplinary action, resulting in no penalty.

Potential Issues

- § 87(2)(b) said that there was a camera in the basement apartment and that the incident could have been recorded. § 87(2)(b) asked the CCRB to contact the manager of the building, whom he identified as "§ 87(2)(b)". "§ 87(2)(b)" declined to provide his full name to the investigation. He confirmed that there was a camera and said that the VCR box had been confiscated by the NYPD. The alleged video footage was requested from the 88th Precinct. The 88th Precinct (BR30) returned the request with a note that they reviewed the content of the VCR box and it did not depict the incident.

- On January 11, 2017, § 87(2)(b) the victim, was contacted by the CCRB, and she provided a brief telephone statement, but then declined to provide a sworn statement as she did not want to participate in the investigation (BR05).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) (BR01) said that at unknown time while he was in the holding cell, he complained to an officer about pain to his head and asked that officer several times to take him to the hospital. The officer told § 87(2)(b) that he was “on hold,” and asked him to wait. § 87(2)(b) was not transported to the hospital at any later time. § 87(2)(b) described the subject officer as a white male, approximately 22 or 23 years old, approximately 5’7” tall, approximately 170 pounds, with brownish blonde hair, and dressed in uniform. The Roll Call (BR06) for Tour 2 of December 11, 2016, indicated that Sgt. Douglas Ayres was working as a desk officer. The Roll Call did not list any officer assigned to cells. According to the Command Log (BR07) for December 11, 2016, § 87(2)(b) was brought to the stationhouse at 10:51 a.m. Sgt. Ayres inspected cells at 11:20 a.m. According to Sgt. Ayres’ NYPD Photograph (BR08), he is a white male, § 87(2)(b) old, 6’ tall, 150 pounds, with brown-blondish hair and brown eyes. Sgt. Ayres (BR24) testified that he was at the desk from 6:55 a.m. to 3:52 p.m. on December 11, 2016, and he acknowledged inspecting cells at approximately 11:20 a.m., but he did not remember § 87(2)(b) § 87(2)(g)

Allegations not pleaded

- Entry and Property Damage:** It is undisputed that PO Rauscher kicked in § 87(2)(b) s door to gain entry to the premises. § 87(2)(g) It is also undisputed that the manner in which officers entered the premises damaged § 87(2)(b) s door. § 87(2)(g)
- Vehicle search:** § 87(2)(b) alleged that PO Rauscher searched § 87(2)(b) s vehicle after Lt. Zelikov. § 87(2)(g)

Allegation A – Abuse of Authority: Lieutenant Vitaliy Zelikov entered § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher drew his gun.

Allegation C – Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher pointed his gun at § 87(2)(b)

It is undisputed that Lt. Zelikov supervised the entry into § 87(2)(b) although the circumstances surrounding the entry are disputed.

§ 87(2)(b) (BR01) stated that on December 11, 2016, at approximately 8:30 a.m., he had a physical altercation with his girlfriend, § 87(2)(b) over the ownership of their car, a gray 2011 Nissan Altima, which § 87(2)(b) wanted to take away. § 87(2)(b) explained that the car was registered under § 87(2)(b) s name, but he was making payments on it.

The altercation between § 87(2)(b) and § 87(2)(b) took place in front of § 87(2)(b)'s residence, located at § 87(2)(b) in Brooklyn. During the altercation, § 87(2)(b) punched § 87(2)(b) in his face and scratched his neck. In response, § 87(2)(b) placed his arm around § 87(2)(b)'s neck, grabbed her bag, and took her car keys. § 87(2)(b) then grabbed her cell phone and attempted to hit § 87(2)(b) with it. § 87(2)(b) smashed the cell phone out of § 87(2)(b)'s hand and it fell onto the ground. § 87(2)(b) then walked across the street and § 87(2)(b) followed her. § 87(2)(b) returned the car keys to § 87(2)(b) and walked back to his apartment. § 87(2)(b) assumed that § 87(2)(b) must have called the police to report the altercation, but did not actually observe her do so.

Before § 87(2)(b) entered his apartment, he did not see or hear the police arrive, nor did he attempt to flee from officers. § 87(2)(b) entered his basement apartment and locked the front door. Immediately thereafter, § 87(2)(b) heard someone yell, "Police! Open up!" followed by a loud banging. Before § 87(2)(b) could reach the front door, the door broke and approximately four police officers, identified by the investigation as PO Caleb Rauscher, Lt. Vitaliy Zelikov, PO Robinson Polanco, and PO Michael Misilewich, entered the apartment. Upon entering the apartment, PO Rauscher drew and pointed his gun at § 87(2)(b). PO Rauscher then approached § 87(2)(b) and pressed his gun against § 87(2)(b)'s right cheek.

The exterior of his front door and the door's frame were damaged as a result of officers entering the premises. § 87(2)(b) did not provide any photographs of the alleged damage to the investigation, nor could he further describe the damage.

§ 87(2)(b) (BR05) confirmed that she had a physical altercation with § 87(2)(b) though she refused to describe the altercation in detail. § 87(2)(b) said that § 87(2)(b) assaulted her inside of § 87(2)(b) in Brooklyn and that she then left the apartment and called 911.

§ 87(2)(b) observed § 87(2)(b) approach her car, which was parked nearby, take something – she could not tell what – from inside the car, and then walk back to the apartment. While § 87(2)(b) was walking back to the apartment, the police arrived. § 87(2)(b) did not believe that the officers saw her. Approximately four officers, identified by the investigation as PO Rauscher, Lt. Zelikov, PO Polanco, and PO Misilewich, exited their vehicles and ran towards § 87(2)(b). At that time, § 87(2)(b) had already entered his apartment and closed the front door. § 87(2)(b) did not believe that § 87(2)(b) saw the officers or that he attempted to run away from them.

§ 87(2)(b) moved to stand at the gate that leads to the stairs of the basement apartment. She heard Lt. Zelikov yell, "Open the door." He then kicked the door several times, causing it to break.

During the 911 call (BR09), § 87(2)(b) told the operator that she was assaulted by her boyfriend at § 87(2)(b) and that she could not move, suspecting that her leg was broken. § 87(2)(b) provided her boyfriend's description as a black male, wearing a black coat and a blue shirt. § 87(2)(b) told the operator that her boyfriend was in the apartment and that she was outside. § 87(2)(b) did not indicate where exactly outside she was. § 87(2)(b) was in distress and crying. She told the operator that she was hiding from § 87(2)(b) because she did not want him to see that she was calling the police. § 87(2)(b) also informed the operator that she saw police arrive at the location, and that the officers were trying to enter the apartment. The officers did not see § 87(2)(b). She did not indicate whether or not weapons were involved.

In the police radio call (BR10), the dispatcher related to the officers § 87(2)(b)'s description of § 87(2)(b). At 5:15 minute mark of the radio call, Sector D1, identified by the

investigation as PO Polanco and PO Misilewich, asks the dispatcher if the female called back. The dispatcher informs Sector D1 that the female is outside of the location. At 5:40 minute mark, a lieutenant, identified by the investigation as Lt. Zelikov, informs the dispatcher that he is with the complainant, § 87(2)(b) and that the perpetrator, § 87(2)(b) is in custody.

§ 87(2)(b)'s arrest report #§ 87(2)(b) (BR11) indicated that at the time of his arrest, § 87(2)(b) was wearing a black sweatshirt or jogger jacket, multi-colored shorts, and multi-colored sneakers.

Lt. Zelikov (BR13) said that on December 11, 2016, at 9:32 a.m., he and his partner, PO Rauscher, received a radio call about domestic assault in progress at § 87(2)(b) in Brooklyn. Lt. Zelikov was informed over the radio that the 911 caller, § 87(2)(b) was being assaulted in the basement apartment and her leg may have been broken. Lt. Zelikov was also provided with the description of the perpetrator as a black male, who was wearing a black jacket, shorts, and a blue shirt.

As Lt. Zelikov and PO Rauscher arrived to the location, Lt. Zelikov observed a male individual, § 87(2)(b). Lt. Zelikov noticed that § 87(2)(b) matched the description of the perpetrator provided in the 911 call. Lt. Zelikov saw § 87(2)(b) exit § 87(2)(b)'s Nissan, which was parked in front of § 87(2)(b). Lt. Zelikov did not see § 87(2)(b).

Lt. Zelikov and PO Rauscher exited their vehicle, identified themselves as police officers, and asked § 87(2)(b) to stop. When § 87(2)(b) saw Lt. Zelikov and PO Rauscher, he turned around and ran towards § 87(2)(b). Lt. Zelikov and PO Rauscher immediately ran after § 87(2)(b). § 87(2)(b) then entered the basement apartment and locked the door behind him. Lt. Zelikov instructed PO Rauscher to kick the front door of the apartment without issuing any warnings or commands. Lt. Zelikov ordered PO Rauscher to force the front door because he felt there was an immediate need to enter the location to prevent § 87(2)(b) from fleeing, and because he believed, based upon the information relayed to him by the 911 dispatcher and by the fact that he did not see § 87(2)(b) outside the location, that § 87(2)(b) may have been injured inside.

When PO Rauscher kicked the door with his foot, the door broke, and the officers then entered. Lt. Zelikov confirmed that the door frame was damaged as a result, but he could not further describe the damage.

Lt. Zelikov did not see PO Rauscher or any other officer enter § 87(2)(b)'s apartment with his gun drawn and pointed at § 87(2)(b) and he denied doing this himself.

PO Rauscher (BR14) closely corroborated Lt. Zelikov's testimony, except he added that after § 87(2)(b) fled and locked the front door of the apartment, PO Rauscher ordered § 87(2)(b) to open the door. § 87(2)(b) yelled something, but PO Rauscher could not understand what § 87(2)(b) said. PO Rauscher kicked the front door, causing damage to the door jamb, in order to enter. PO Rauscher felt he had to enter immediately because he was in pursuit of the suspect for family assault, and because he believed that § 87(2)(b) was incapacitated in the apartment.

PO Rauscher acknowledged that he entered § 87(2)(b)'s apartment with his gun drawn and pointed at § 87(2)(b) who was standing immediately behind the front door. PO Rauscher ordered § 87(2)(b) to show his both hands, which were down at his sides. § 87(2)(b) complied. PO Rauscher explained that he drew and pointed his gun at § 87(2)(b) for a few seconds, because he could not see both of § 87(2)(b)'s hands when he initially fled in to the apartment, and could not tell if § 87(2)(b) had any weapons, causing PO Rauscher to fear for his safety.

PO Polanco (BR15) corroborated Lt. Zelikov's and PO Rauscher's testimonies, except he said that when he and PO Misilewich arrived at the scene, he did not see § 87(2)(b) PO Polanco saw Lt. Zelikov run in the direction of § 87(2)(b) PO Polanco and PO Misilewich immediately followed Lt. Zelikov. When PO Polanco came closer, he saw Lt. Zelikov and PO Rauscher standing at the bottom of the exterior stairs that led to the basement apartment. Lt. Zelikov and PO Rauscher ordered § 87(2)(b) to open the door. PO Polanco did not hear any noise coming from behind the front door, but he through a window in the front door saw a person he later identified as § 87(2)(b) PO Polanco did not see PO Rauscher or any other officer enter § 87(2)(b)'s apartment with his gun drawn and pointed at § 87(2)(b).

PO Misilewich (BR25) generally corroborated PO Polanco's statement, with the following exception: by the time PO Misilewich approached the basement apartment, he saw that Lt. Zelikov and PO Rauscher had already entered. PO Misilewich did not see how exactly the officers entered the apartment, but he observed damage to the front door that he could not further describe.

Under the "emergency doctrine," "(1)[t]he police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for assistance for the protection of life or property, (2) the search must not be primarily motivated by intent to arrest and seize evidence, and (3) there must be some reasonable basis, approximating probable cause to associate the emergency with the area or place to be searched " to justify warrantless entry into a person's home. People v. DePaula, 179 A.D. 2d 424 (App. Div. 1st 1992) (BR16).

The officer may draw and point his firearm if he has a reasonable fear for his own or any other person's safety. Determination of whether the pointing of a firearm rises to the level of misconduct must be made by assessing the reasonableness of the officer's actions in the totality of the surrounding circumstances. PD v. Gliner, OATH Index No. 955/00 (BR17). The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Section 221-01 (BR18).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Caleb Rauscher used physical force against § 87(2)(b)

Allegation E – Force: Inside of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov used physical force against § 87(2)(b)

§ 87(2)(b) (BR01) said that after PO Rauscher holstered his gun, he approached § 87(2)(b) and punched him twice in his head and then three or four times in his stomach. Lt. Zelikov also approached § 87(2)(b) grabbed § 87(2)(b)'s head with his both hands, and hit the left side of § 87(2)(b)'s head against the wall approximately three or four times, causing § 87(2)(b) to fall onto to his back. PO Rauscher and Lt. Zelikov did not issue any commands to § 87(2)(b) before punching him. § 87(2)(b) did he resist PO Rauscher or Lt. Zelikov in any manner while being placed in handcuffs.

During § 87(2)(b)'s CCRB interview, the photograph of § 87(2)(b)'s alleged head injury was taken. The photograph (BR19) was taken 16 days after the incident and it does not show any visible injuries. § 87(2)(b)'s arrest photograph (BR32) did not show any visible injuries to his head, though this may be because the photograph does not depict the part of § 87(2)(b)'s head that was allegedly injured. § 87(2)(b) did not obtain medical treatment of any kind.

§ 87(2)(b) (BR05) stated that while standing at the gate that leads to the staircase of the basement apartment, she saw PO Rauscher, Lt. Zelikov, PO Polanco, and PO Misilewich enter the apartment. They then pushed § 87(2)(b) and one of the officers hit § 87(2)(b)'s head against the wall. § 87(2)(b) could not describe the officer that hit § 87(2)(b)'s head against the wall, because everything happened fast and she could not see clearly. § 87(2)(b) did not provide an in-person statement to the investigation and refused to cooperate any further.

The search for Threat, Resistance, or Injury Incident Report (TRI) (BR26) yielded negative results. § 87(2)(b)'s arrest report #§ 87(2)(b) (BR11) indicated that no force was used against § 87(2)(b) during his apprehension. A search for Medical Treatment of Prisoner Form (MTPR) (BR31) revealed negative results.

PO Rauscher (BR14) denied punching § 87(2)(b) in his head or stomach during this incident. Besides grabbing § 87(2)(b)'s hands in an effort to place him in handcuffs, he did not use any other force against him, nor did he see any other officer do so.

Lt. Zelikov (BR13) denied hitting § 87(2)(b)'s head against the wall at any point during this incident, nor did he see PO Rauscher punch § 87(2)(b) in his head or stomach or use any force against him.

PO Polanco (BR15) and PO Misilewich (BR25) both denied seeing PO Rauscher or Lt. Zelikov ever using any force against § 87(2)(b) during this incident.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: Lieutenant Vitaliy Zelikov searched § 87(2)(b) in Brooklyn.

§ 87(2)(b) (BR01) explained that at the time of the incident § 87(2)(b) building was under renovation, and no one resided there besides him. “§ 87(2)(b) the property manager, had allowed § 87(2)(b) to live in the basement apartment temporarily while he was doing repairs.

After § 87(2)(b) was placed in handcuffs, PO Polanco and PO Rauscher brought him outside, where § 87(2)(b) identified him as the male individual who assaulted; officers then brought him back inside the location. At that time, he saw Lt. Zelikov walk to the master bedroom and pick up a marijuana cigarette from a TV stand. § 87(2)(b) explained that the apartment is designed in such way that while standing in the living room, it is possible to see what is going on in the bedroom.

Lt. Zelikov returned to the living room, opened an opaque black plastic bag that was lying on the top of a washing machine, and looked inside. Lt. Zelikov then took the bag, approached § 87(2)(b) and showed him the contents of the bag, approximately three or four ounces of § 87(2)(b)'s marijuana. Lt. Zelikov then walked back to the master bedroom and opened all dresser drawers. Lt. Zelikov recovered a nine millimeter revolver from the top drawer. § 87(2)(b) was aware that there was a gun in the drawer before the police arrived, but he denied that the gun belonged to him. When asked who the gun belonged to, § 87(2)(b) replied, “She [referring to § 87(2)(b)] had it too,” and then refused to answer any further questions about it. Lt. Zelikov did not retrieve the gun from the drawer, but walked back to § 87(2)(b). § 87(2)(b) showed him a consent-to-search form, and asked him to sign it. § 87(2)(b) refused. § 87(2)(b) (BR05) stated that she did not enter the apartment after the police arrived or witness a search of it, and denied having any knowledge about marijuana or a firearm at the location.

In the criminal court complaint (BR21), PO Polanco testified that on December 11, 2016, at approximately 7:45 a.m., § 87(2)(b) complained that § 87(2)(b) assaulted her at § 87(2)(b) in Brooklyn. When PO Polanco responded to the location, he observed a burning marijuana cigarette, a digital scale, and a large plastic bag of marijuana in plain view. PO Polanco returned to § 87(2)(b)'s apartment on December 11, 2016, at approximately 9 p.m. to execute a search warrant. PO Polanco recovered a nine millimeter pistol and a magazine containing eight rounds of ammunition from § 87(2)(b)'s dresser drawer and marijuana observed earlier.

The Kings County search warrant § 87(2)(b) (BR20) was obtained by PO Polanco on § 87(2)(b), which was signed by Kings County Criminal Court judge Hon. § 87(2)(b). The search warrant was issued for the basement apartment located at § 87(2)(b) in Brooklyn, because PO Polanco had probable cause to believe that marijuana, paraphernalia commonly used to process and packaging marijuana, documents related to the illegal trafficking of marijuana, and U.S. currency related to the illegal sale of marijuana would be found in the aforementioned location. The search warrant did not mention anything about PO Polanco having probable cause to believe that there was a weapon at the location.

Property voucher (BR28) #§ 87(2)(b) indicated that on December 12, 2016, PO Polanco vouchered as arrest evidence a nine millimeter black pistol, two magazines and three cartridges recovered from § 87(2)(b) in Brooklyn, on December 11, 2016.

Lt. Zelikov (BR13) said that after § 87(2)(b) was apprehended, he looked down the hallway to see if § 87(2)(b) was in the bedroom. Lt. Zelikov explained that § 87(2)(b)'s apartment is very small and constructed in such way that it is possible to see inside bedroom from the living room. Lt. Zelikov did not enter the bedroom, nor did he see PO Rauscher, PO Polanco or PO Misilewich do so. Lt. Zelikov saw a white plastic bag which contained a large clear Ziploc bag of marijuana in the plain view. The bag was wide open, and Lt. Zelikov saw from outside a green substance that he identified on sight as marijuana. Lt. Zelikov did not touch the bag. Lt. Zelikov did not see or open any black plastic bag during this incident.

Lt. Zelikov asked § 87(2)(b) about marijuana and who it belonged to. § 87(2)(b) acknowledged that marijuana belonged to him. Lt. Zelikov felt that § 87(2)(b) could have more contraband in his apartment, so he explained to § 87(2)(b) that if he consented to search, the officers would not need to obtain a search warrant and would be able to conduct search right away. § 87(2)(b) refused. Lt. Zelikov then ordered the location to be secured and asked PO Polanco to obtain the search warrant.

Lt. Zelikov acknowledged entering § 87(2)(b)'s bedroom before § 87(2)(b) was transported to the stationhouse because § 87(2)(b) asked Lt. Zelikov to bring him his pants that were in the bedroom. Because Lt. Zelikov did not have the search warrant at that time, and he did not wish his officers or himself enter § 87(2)(b)'s bedroom without any warrant, Lt. Zelikov decided to escort § 87(2)(b) to the bedroom to allow him to get dressed. When Lt. Zelikov entered the bedroom, he saw a marijuana cigarette on the dresser. Lt. Zelikov did not touch the cigarette, nor did he open any drawers or search the bedroom.

Lt. Zelikov explained that on December 11, 2016, at 9:10 p.m., he, PO Polanco, PO Rauscher, and several other officers returned to § 87(2)(b)'s apartment to execute the search warrant obtained by PO Polanco. Lt. Zelikov denied having any prior knowledge about a firearm at the location before the search warrant was executed.

PO Polanco (BR15) closely corroborated Lt. Zelikov's statement, with the following exception. PO Polanco said he entered § 87(2)(b)'s bedroom looking for § 87(2)(b) but she was not there. When PO Polanco entered the bedroom, he saw a marijuana cigarette, a scale with marijuana residue, sandwich bags, and wrapping machines in plain view on the TV stand. PO Polanco entered the room alone and did not touch anything. PO Polanco then returned to the living room and informed Lt. Zelikov about his findings.

PO Rauscher (BR14) generally corroborated Lt. Zelikov's and PO Polanco's testimonies. § 87(2)(b)'s account of events differed substantially from that of the officers. Lt. Zelikov acknowledged entering § 87(2)(b)'s bedroom only to allow § 87(2)(b) to change his clothes, and denied searching the apartment prior execution of the search warrant. PO Polanco on the other hand stated that he went to § 87(2)(b)'s bedroom only to look for § 87(2)(b) who he believed was in the apartment, and denied conducting a search of any spaces smaller than a person might hide or seeing any other officer do so. Lt. Zelikov, PO Polanco and PO Rauscher all testified that they observed a large quantity of marijuana in the plain view which prompted Lt. Zelikov to secure the location in order to obtain the search warrant. The search warrant was issued to search for marijuana and evidence suggesting sale of it, and there was no mention of any evidence of a firearm.

§ 87(2)(g)

Allegation G – Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov searched the vehicle in which § 87(2)(b) was an occupant.

Allegation H – Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Lieutenant Vitaliy Zelikov damaged § 87(2)(b)'s property.

It is undisputed that § 87(2)(b)'s car was searched, but the circumstances surrounding these allegations are disputed.

§ 87(2)(b) (BR01) stated that when PO Polanco escorted him to the police vehicle, he saw § 87(2)(b) sitting in her car, which was parked slightly ahead of the vehicle in which § 87(2)(b) was placed. Lt. Zelikov approached § 87(2)(b)'s car and § 87(2)(b) heard § 87(2)(b) ask Lt. Zelikov if he was going to arrest her. Lt. Zelikov told § 87(2)(b) that she was not going to be arrested because she was a victim. Lt. Zelikov then asked § 87(2)(b) to open the trunk of the car, and she complied. Lt. Zelikov searched the trunk, and then walked to the front of the car, got inside, and searched underneath the front and back passenger seats. § 87(2)(b) also heard a sound that led him to believe Lt. Zelikov broke the glove compartment, though he did not actually see Lt. Zelikov break it, and then saw him checking inside. The car was then searched again by another officer, PO Rauscher, who checked the trunk and underneath the front and back passenger seats. § 87(2)(b) remained sitting in the car while Lt. Zelikov and PO Rauscher searched it.

§ 87(2)(b) did not provide the investigation with any photographs of the damaged glove compartment, nor could he specify further how it was damaged.

§ 87(2)(b) (BR05) said at some point during the incident, she walked to her car and saw an officer, whom she described as a uniformed white male, approximately 5'9" tall, and with an average build, in her car. Because this description was vague, and because § 87(2)(b) declined to provide a sworn statement, the investigation could not determine the identity of the officer in § 87(2)(b)'s account. The officer opened the glove compartment and also pulled out some documents from the front driver side door panel.

The officer saw § 87(2)(b) and asked her what the documents were. § 87(2)(b) told the officer that the documents belonged to her. The officer then informed § 87(2)(b) that he initially observed § 87(2)(b) entering the car, so he thought that the car belonged to him. § 87(2)(b) told the officer that the car belonged to her and asked him to stop searching it. The officer complied with § 87(2)(b)'s request and exited the car. When § 87(2)(b) got in the car, she saw that the glove compartment was broken. § 87(2)(b) did not see how it came to be broken. § 87(2)(b) believed that § 87(2)(b) was still inside § 87(2)(b) at the time of the vehicle search and would not have been able to see it.

Lt. Zelikov (BR13) said that after § 87(2)(b) was apprehended, § 87(2)(b) came to the scene and identified him as the perpetrator who assaulted her earlier. § 87(2)(b) complained of pain, so Lt. Zelikov requested an ambulance. While waiting for the ambulance, Lt. Zelikov told § 87(2)(b) that he saw § 87(2)(b) exit the car parked in front of the location. § 87(2)(b) told Lt. Zelikov that the car belonged to her. Lt. Zelikov told § 87(2)(b) that some quantity of marijuana was observed inside of the apartment, and that he suspected that § 87(2)(b) may have left something in her car. Lt. Zelikov asked § 87(2)(b) if she “would like us to take a look

in the car to see if § 87(2)(b) could have left something in the car that would get her in trouble in the future if she had any drugs inside.” § 87(2)(b) replied, “Okay, do it,” agreeing to let her car to be searched. Lt. Zelikov and PO Rauscher then opened the front driver side door, got inside and checked the car’s “lungeable” areas. Lt. Zelikov did not remember the car’s condition, or if the interior of the car was damaged. Lt. Zelikov denied breaking or searching the glove compartment, or searching the trunk or the back passenger seats of the car. § 87(2)(b) never asked Lt. Zelikov to stop searching her car, nor did he see if § 87(2)(b)’s car was searched by any other officers.

PO Rauscher (BR14) closely corroborated Lt. Zelikov’s testimony. PO Rauscher denied breaking the car’s glove compartment, searching the trunk or the back passenger seats, or observing Lt. Zelikov do so.

PO Polanco (BR15) and PO Misilewich (BR25) did not see § 87(2)(b)’s car being searched by Lt. Zelikov or PO Rauscher. PO Polanco and PO Misilewich both said that they may not have been on scene to observe a search of § 87(2)(b)’s vehicle, as they drove § 87(2)(b) to the 75th Precinct stationhouse immediately upon escorting him to their police vehicle.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation I – Abuse of Authority: En route to the 75th Precinct stationhouse, Police Officer Robinson Polanco did not obtain medical treatment for § 87(2)(b)

Allegation J – Abuse of Authority: En route to the 75th Precinct stationhouse, Police Officer Michael Misilewich did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) (BR01) stated that en route to the 75th Precinct stationhouse, he complained to PO Polanco and PO Misilewich of pain to his head and asked them to transport him to the hospital. PO Polanco and PO Misilewich ignored his request.

PO Polanco (BR15) and PO Misilewich (BR25) both testified that they did not observe any visible physical injuries on § 87(2)(b) and § 87(2)(b) never complained to them about any pain or injuries while they were at the scene or en route to the stationhouse. PO Polanco and PO Misilewich denied refusing to obtain medical treatment for § 87(2)(b) during this incident.

PO Rauscher (BR14) and Lt. Zelikov (BR13) both testified that they did not observe any visible physical injuries on § 87(2)(b) and he did not complain to them or to any other officers of any pain or injuries. PO Rauscher and Lt. Zelikov did not hear § 87(2)(b) ask to be taken to the hospital.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation K – Abuse of Authority: At the 75th Precinct stationhouse, Sergeant Douglas Ayres did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) (BR01) stated that when he was brought to the 75th Precinct stationhouse and lodged in the cell, he complained to an officer, identified via investigation as Sgt. Douglass Ayres, that his head was hurting, and asked Sgt. Ayres several times to transport him to the hospital. Sgt. Ayres told § 87(2)(b) to wait. § 87(2)(b) was never taken to the hospital at any later time.

§ 87(2)(b) believed that his conversation with Sgt. Ayres was witnessed by another male prisoner, whose full name § 87(2)(b) did not know but whom he called “Shea.”

The prisoner holding pen roster (BR27) did not list any male prisoner known as Shea. However, it indicated that two prisoners, § 87(2)(b) and § 87(2)(b) were held with § 87(2)(b) in the same cell at the same time.

§ 87(2)(b) (BR23) stated that he was heavily intoxicated when he was brought to the stationhouse, and he did not remember § 87(2)(b) nor did he remember any male prisoner requesting medical attention.

§ 87(2)(b) (BR22) remembered a black male prisoner was being ignored by the officers. § 87(2)(b) did not know the prisoner, and he was not sure what he specifically asked for, but thought he may have asked to go to the bathroom, or requested that officers give him medicine. § 87(2)(b) did not remember if any of the prisoners complained of pain or asked to be taken to the hospitals.

Sgt. Ayres (BR24) did not remember § 87(2)(b) and denied interacting with him on December 11, 2017. Sgt. Ayres acknowledged that at approximately 11:20 a.m., he went to inspect the cells, which contained three male prisoners. Sgt. Ayres did not remember if § 87(2)(b) was one of these prisoners, or if any of the prisoners requested medical attention. Sgt. Ayres did not refuse medical attention to § 87(2)(b) or any other prisoner.

§ 87(2)(g)

Squad: 4

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date